

UNAPPROVED
VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS
TASK FORCE ON PRENEED ISSUES
MEETING MINUTES

The Task Force on Preneed Issues convened for a Committee meeting on Monday, May 10, 2010 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 201, 2nd Floor, Conference Room #1, Henrico, Virginia.

The following Board members were present:

Michael Leonard, FSP, Chair
Willard D. Tharp, FSP
Billie Watson Hughes, FSP
Barry Murphy, FSP

DHP staff present for all or part of the meeting included:

Lisa R. Hahn, Executive Director
Elaine J. Yeatts, Senior Policy Analyst
Missy Currier, Administrative Assistant

Representative from the Office of the Attorney General was present for the meeting:

Amy Marschean, Senior Assistant Attorney General

Other Task Force Members Present:

Cindy Olson, Eligibility Policy Manager, Dept. of Medical Assistance Services (DMAS)
Susan Hart, Virginia Department of Social Services (VDSS)
Bonnie Salzman, Attorney, SCC Bureau of Insurance
Scott White, SCC Bureau of Insurance
Weldon Hazlewood, SCC Bureau of Insurance
Ray Anderson, SCC Bureau of Insurance

Guests Present:

R.D. Monson, FSP, Homesteaders Life Company
Bo Kenney, Independent Funeral Homes of Virginia
Deb DeWeerd, Regulatory Support Services (RSS)
Thomas Bryant, FSP
Ben R. Lacy IV, Sands Anderson PC
Gary Bianco, Forethought
William Furley, CFP, Inc.
Rusty Spencer, TDW Associates

CALLED TO ORDER

Mr. Leonard, Chair, called the Preneed Committee meeting to order at 1:10 p.m. He asked that everyone in attendance introduce themselves and stated that the purpose of the meeting was to address preneed issues brought to the attention of the Board.

PRENEED ISSUES DISCUSSED

Medicaid – Surplus of Funds:

How can excess funds that are provided for the purpose of burial expenses be refunded back to Medicaid rather than to the family?

The Department of Medical Assistance Services (DMAS) is unaware when a surplus of funds exists because there is not a system in place to notify them once a person passes.

Funeral Service Providers are aware of excess funds and at times are unsure what to do with the money.

In rare instances family members have changed the burial wishes of the deceased hoping that excess funds will end up in their pocket when a less expensive burial option is chosen.

The Committee wants to ensure that the deceased burial wishes are not changed after their death and that excess money if any is properly refunded back to Medicaid. However there is not a mechanism in place with DMAS to receive the excess funds. The Committee requested DMAS to explore possible solutions to this dilemma of ensuring that excess funds are properly received and recorded by DMAS and bring their suggestions to the Committee during its next meeting.

Out of State Trust Transfers:

Complications with funds held legally in Virginia being transferred to out of state trusts.

It was recommended that representatives from Trust Companies be invited to the next meeting to discuss this issue.

Beneficiary Rights Regarding Insurance Policies:

Complications with insurance policies involving ownership rights and beneficiary rights that are irrevocably assigned to a specific Funeral Director or Funeral Home, that are contrary to the Code of Virginia and sometimes in violation of the five year rule in the transfer of assets for Medicaid qualification.

It was recommended that more information be obtained for the next meeting.

Third Party Sellers of Preneed:

A contradiction in the law may exist in the Code of Virginia regarding the marketing practices of third party sellers of preneed companies and those who are not attached to a funeral establishment. The following sections of the Code were referenced for discussion.

§ 54.1-2810. Licensure of funeral establishments (4); An operator of a funeral establishment shall not allow any person licensed for the practice of funeral service to operate out of his funeral establishment unless the licensee is the operator or an employee of the operator of a licensed funeral establishment.

§ 54.1-2806. Refusal, suspension or revocation of license.

6. Employment by the licensee of persons known as "cappers" or "steerers," or "solicitors," or other such persons to obtain the services of a holder of a license for the practice of funeral service;

7. Employment directly or indirectly of any agent, employee or other person, on part or full time, or on a commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral establishment;

The Committee was somewhat confused about the issues that were raised. They did however address that there seems to be a misunderstanding of the intent of Section 54.1-2810 because this section speaks to licensure of funeral establishments and should not apply to the marketing practice of third party preneed sellers. Mr. Leonard requested that Ms. Marschean, Ms. Yeatts and Ms. Hahn develop alternative wording on this paragraph to clarify the section suggesting that the verbiage be "employed by not an employee of". The Committee believes that this would provide better understanding of the intent of the law and clarify any misunderstandings.

Further information will need to be collected to fully understand this issue regarding tracking preneed money and how it relates to these code sections.

Mr. Leonard thanked everyone for attending the meeting and requested any supplemental material relevant to these issues be sent to the board.

ADJOURNMENT

There being no further business before the Board, the meeting adjourned at 3:10 p.m.

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